

ASHBY & GEDDES

ATTORNEYS AND COUNSELLORS AT LAW
500 DELAWARE AVENUE
P. O. BOX 1150
WILMINGTON, DELAWARE 19899

TELEPHONE
302-654-1868
FACSIMILE
302-654-2067

April 20, 2007

The Honorable Sue L. Robinson
United States District Court
844 King Street
Wilmington, DE 19801

VIA ELECTRONIC FILING

Re: *In re '318 Patent Infringement Litigation,*
Civil Action No. 05-356-SLR (Consolidated)

Dear Chief Judge Robinson:

On behalf of the plaintiffs in the above action, I am writing regarding this afternoon's letter (D.I. 366) from the Barr defendants (collectively, "Barr") submitting a proposed order of dismissal as to defendant Barr Pharmaceuticals, Inc. – the ground for dismissal being Barr's counsel's representation that Barr Pharmaceuticals will agree to be bound by any judgment entered by this Court.

Consistent with Mr. Pappas' remarks at the pretrial conference, plaintiffs remain willing to dismiss as to Barr Pharmaceuticals so long as Barr Pharmaceuticals agrees to be bound by any judgment ultimately entered in this case. However, we would like that condition to be included in the order of dismissal, but it is absent from the proposed order submitted today by Barr. Had Barr shared its proposed order with us prior to filing it, we undoubtedly would have been able to agree upon a simple drafting change to include the critical provision that Barr Pharmaceuticals will be bound by the ultimate judgment in this case, and we still easily should be able to do so. The purpose of this letter simply is to request that the Court not enter the order submitted earlier today, so as to afford the parties an opportunity to discuss a revised draft.

Respectfully,

/s/ Steven J. Balick

Steven J. Balick

SJB/rbg
179881.1

c: John C. Phillips, Jr., Esquire (by hand and via electronic mail)
Lynn M. Ulrich, Esquire (via electronic mail)
Frederick L. Cottrell, III, Esquire (by hand and via electronic mail)
Alan H. Bernstein, Esquire (via electronic mail)
George F. Pappas, Esquire (via electronic mail)